



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Nova Piping Systems

File: B-223481

Date: September 17, 1986

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### DIGEST

Protest that agency should have solicited bids for the replacement of piping using two design alternatives rather than merely using one of the design alternatives is denied where there is no evidence that law or regulations applicable to the procurement required the solicitation to incorporate both design alternatives and an architect-engineer study conducted prior to soliciting bids shows that the design selected would be substantially less costly to the government than the other approach.

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### DECISION

Nova Piping Systems (Nova) protests as unduly restrictive invitation for bids (IFB) No. F45603-86-B-0031 issued by McChord Air Force Base, Washington (Air Force) for the replacement of existing direct buried steam and condensate return piping with factory preinsulated piping and shallow concrete lidded trenches (shallow trench). Nova contends that the Air Force should have solicited bids for direct buried piping as an alternative to the shallow trench method because the direct buried method allegedly is a more economical approach, and Department of Defense (DOD) "mandates" require the Air Force to solicit on the direct buried method at least as an alternative.

We deny the protest.

According to the Air Force, the issuance of the IFB was preceded by a two-phase design analysis performed by an architect-engineer (A-E) firm. Phase one, performed in 1982, included a cost comparison of the direct buried versus the shallow trench alternatives. The estimated construction cost for the shallow trench alternative was \$82,665 less than the direct buried system. Based upon the cost comparison results, in 1984 the A-E firm completed the design for the replacement piping system incorporating the shallow trench method. This design is the basis for the specifications of the protested IFB for the replacement of the existing buried steam piping.

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When a protester challenges a specification as unduly restrictive of competition, the procuring agency must establish prima facie support for its contention that the restrictions it has imposed are reasonably related to its needs. Once the agency establishes this support, the burden then shifts back to the protester to show that the requirements complained of are clearly unreasonable. Military Services, Inc. of Georgia, B-221384, Apr. 30, 1986, 86-1 C.P.D. ¶ 423. Thus, our first inquiry is whether Nova has met its burden of establishing that the agency's cost comparison, which resulted in the decision to adopt the shallow trench design, was clearly unreasonable.

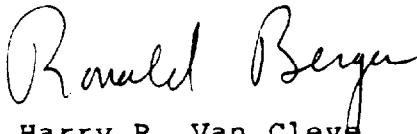
In its initial letter of protest, Nova asserted that, based on an "economical analysis," the direct buried method is more economical than the shallow trench method. This is disputed by the Air Force, which states in its report to our Office that the estimated cost of the shallow trench method was substantially less than the direct buried method. In its comments on that report, Nova concedes that it is unable to make an exact evaluation of the cost of its direct buried system because the contract documents do not provide sufficient data regarding soil conditions and presence of water. The protester thus cannot show its system is more economical than the system solicited. We think, however, that in view of its representation in its initial protest which we presumed was based on some evidence, and the agency's rebuttal of Nova's allegation, it is now incumbent on Nova to be able to support its protest allegation in some manner and not now claim it is unable to do so based on lack of information in the solicitation. Nova, therefore, has not met its burden of affirmatively showing that the direct buried alternative would be less costly than the shallow trench method, and that the specification for shallow trench piping unduly restricts competition. See Centurial Products, 64 Comp. Gen. 858 (1985), 85-2 C.P.D. ¶ 305; Printer Systems Corp., B-213798, May 22, 1984, 84-1 C.P.D. ¶ 546.

As authority for its contention that DOD "mandates" require that the direct buried system be solicited as at least an alternative to the shallow trench system, Nova, in its comments, cites an October 1980 letter from the Deputy Assistant Secretary of Defense, Installations and Housing, to the Air Force Director of Engineering and Services, regarding "Uniform Specifications for Heat Distribution," which Nova contends applies to this procurement. The letter appears to be guidance concerning the Department of Defense's efforts to provide uniform specifications for heat distribution systems. Our review of that letter does not indicate a requirement that the direct buried system be solicited in all

cases where shallow trench piping is solicited.<sup>1/</sup>

We conclude that the Air Force acted reasonably in soliciting bids based on the shallow trench method in light of the cost comparison conducted by the A-E firm that showed this method would be more economical than the direct buried method. Centurial Products, 64 Comp. Gen. 858, supra.

The protest is denied.

*for*   
Harry R. Van Cleave  
General Counsel

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<sup>1/</sup> The Air Force indicates that a subsequent Air Force directive, dated June 19, 1984, does state that where a shallow trench system is used, the solicitation should provide information adequate to enable contractors for direct buried systems to bid. However, the directive applied to projects which had not reached 30 percent design completion as of the date of the letter. The Air Force reports that this project was beyond the 30 percent design stage, and Nova does not dispute this statement.